

TYPICAL PUBLIC RECORDS QUESTIONS
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Most records kept by state and local government offices are public records. A public office must organize and maintain its records in a manner so that they can be available for inspection and copying. Non-compliance with Ohio's Public Records Act, RC 149.43, including failure to permit inspection of public records promptly or to provide copies of public records within a reasonable time, can cause a public office or person responsible for the records to be liable for statutory damages of up to \$1000, attorneys fees and court costs. A public office must make its public records and records retention policies available to its employees and the public and create and post a poster of its public records policy.

1. **MAY ANYONE INSPECT PUBLIC RECORDS?** Generally, any person may inspect, and may request copies of, public records, regardless of the person's reason or motivation. A public office, however, is not required to disclose public records about criminal investigations or prosecutions to incarcerated persons without a judge's order.

2. **MAY ALL RECORDS BE INSPECTED AND COPIED?** No. The general rule is that records must be disclosed, but RC 149.43 lists 32 types of records which may be kept confidential, including medical records, records prepared for trial, confidential law enforcement investigatory records, municipal utility usage information, mediation communication records and information pertaining to the recreational activities of minors. In addition, records which are prohibited from being released by federal or state law must be kept confidential. For example, RC 718.13 requires that municipal income tax returns be kept confidential, and trade secrets, matters of attorney-client privilege, library records and security and infrastructure records are required to be kept confidential by other statutes. If part of a record is confidential, that part may be redacted and the rest of the record must be disclosed. The public office must notify the requester of any redaction or make the redaction plainly visible.

3. **MAY PERSONNEL RECORDS BE INSPECTED AND COPIED?** Generally, personnel records, except employee Social Security numbers, home addresses and records of deferred compensation amounts, are subject to inspection and copying. Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth service employee, firefighter, emergency medical technician, BCII investigator, or federal law enforcement officer residential and familial information is an exception to this general rule. RC Chapter 1347 does not prevent personnel records from being inspected or copied. It simply prohibits public offices from keeping unnecessary or irrelevant information in personnel records.

4. **WHEN CAN PUBLIC RECORDS BE INSPECTED AND COPIED?** Upon request, all public records responsive to the request are to be promptly prepared and made available at reasonable times during the regular business hours of the public office.

5. **MUST A REQUEST FOR PUBLIC RECORDS BE IN A PARTICULAR FORM?** Generally, no particular form of request may be required, and a requester cannot be required to put a request in writing or, unless required or permitted by law, to provide the requester's identity or intended use. A public office may ask a requester to make a request in writing, ask for the requester's identity and inquire about the intended use, but only after disclosing that the requester may decline and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office to identify, locate or deliver the public records sought. Journalists must make written requests to obtain certain residential and familial information and municipal utility usage information. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that the public office cannot reasonably identify what public records are being requested, the public office may deny the request, but shall provide the requester the opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed in the ordinary course of the public office's duties. If a request is ultimately denied, in part or in whole, the public office shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the request was provided in writing, the explanation also shall be provided in writing.

6. **MAY ONLY PAPER RECORDS BE INSPECTED AND COPIED?** No. Records kept in electronic form or on computer tape or disk, audiotape, videotape, microfiche, and microfilm or other medium may be inspected and copied. A public office must permit a person requesting a copy to have the copy on paper, in the same medium in which the public office keeps it, or upon any other medium which the public office determines that it reasonably can be duplicated as an integral part of the normal operations of the public office.

7. **HOW SOON MUST COPIES BE PROVIDED?** Copies must be provided within a reasonable time. Typically, the fewer copies requested and the easier the records are to locate, the sooner the copies should be available. The public office may require a deposit of the actual cost (not including labor cost) involved in the requester's choice of the medium for the copy.

8. **MAY COPIES BE OBTAINED BY MAIL OR OTHER MEANS?** Upon request, a public office must transmit copies by mail or other means of delivery or transmission. A public office may require a deposit for cost of postage or delivery and for supplies used in mailing.

9. **HOW CAN AN OFFICE DISPOSE OF PUBLIC RECORDS?** Only in accordance with law or a retention schedule adopted by the appropriate records commission operating in accordance with Revised Code 149.38 or 149.381. Failure to comply may result in liability under RC 149.351, including a civil forfeiture of \$1000 per violation up to a maximum of \$10,000 and attorney fees not to exceed the amount of the forfeiture recovered.